



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Alexander Vainstein et al. Art Unit : Unknown
Serial No. : 09/992,555 Examiner : Unknown
Filed : November 6, 2001
Title : METHOD OF PLANT TRANSFORMATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement mailed March 24, 2004, applicants hereby elect for prosecution the invention of Group I, i.e., claims 1-15, drawn to a method for transforming gypsophila plants.

Applicants made the above election with traverse and request that Group II, i.e., claims 16-19, be considered together with Group I.

More specifically, claims 16-19 of Group II are product-by-process claims and only cover products prepared by the method of claim 1 of Group I. In other words, the Examiner erred in stating that "the product as claimed can be made by another and materially different process." See page 2, lines 9-10. Indeed, it is a common practice at the U.S. Patent and Trademark Office that both claims to a plant and claims to a method of producing a plant are considered on their merits at the same time. See, e.g., U.S. Patent 5,986,188 and U.S. Patent 6,353,162, each of which contains both types of claims. For the Examiner's convenience, copies of both patents are enclosed.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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April 26, 2004
Diane M. Saturno
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Attorney's Docket No.: 13687-003001 / 135233.6
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Please apply any charges to Deposit Account No. 06-1050, with reference to 13687-003001.

Respectfully submitted,

Date: 4-26-04

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